

VZCZCXRO0259
PP RUEHAG RUEHDF RUEHIK RUEHLZ RUEHROV
DE RUEHTC #0012 0050827
ZNR UUUUU ZZH
P 050827Z JAN 07
FM AMEMBASSY THE HAGUE
TO RUEHC/SECSTATE WASHDC PRIORITY 7785
INFO RUCPDOG/USDOC WASHDC
RUEATRS/DEPT OF TREASURY WASHDC
RUEHFT/AMCONSUL FRANKFURT 3591
RUCNMEM/EU MEMBER STATES COLLECTIVE
RUEHAT/AMCONSUL AMSTERDAM 2010

UNCLAS THE HAGUE 000012

SIPDIS

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SUBJECT: DUTCH LIKELY TO APPROVE NYSE/EURONEXT MERGER

REF: PARIS 7892

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¶1. (SBU) SUMMARY. Dutch Finance Minister Gerrit Zalm is preparing to issue a no objection certificate in February that would remove one of the last hurdles for the NYSE/Euronext merger. His approval will contain provisions designed to discourage U.S. regulations like Sarbanes-Oxley from being applied to European firms listed on the combined exchange. END SUMMARY

¶2. (U) In a letter sent to NYSE and Euronext prior to their shareholders' meetings in December, Zalm indicated that he was "minded" to formally approve the merger. Legally based in the Netherlands, Euronext requires a license in the form of a "declaration of no objection" from the MOF to operate. Zalm's letter also said that this license will include further provisions to shield European companies from U.S. regulations applying across borders.

¶3. (SBU) On Tuesday, Finance Ministry officials told Emboffs that only one major regulatory issue remained outstanding, that of U.S. sanctions against targeted countries (administered by Treasury's Office of Foreign Assets Control, OFAC). They expected this issue to be settled with OFAC soon, so that Zalm can give Euronext the required operating license in early February after the SEC completes its official filing procedure.

¶4. (SBU) MOF officials went on to explain that the license will spell out conditions that will allow the Dutch Minister of Finance to revoke it as a last resort if future U.S. laws would apply to European companies. The procedures in case of spillover would start with the Dutch equivalent of the SEC asking for clarification and become steadily more firm. The stand-by structure involving a Dutch and a Delaware foundation (reftel) would be the second to last step in this process. Our Finance contacts described withdrawing the license as a "nuclear option" designed not to be used but to deter. They said the ministry has held extensive consultations with the key players about this, and noted that not applying Sarbanes-Oxley to Euronext was part of the business case for the merger.

COMMENT

15. (SBU) Negotiations to form a new coalition government started this week, and are expected to run until early March. Until a new government is formed, the current "caretaker" cabinet can continue to implement policy decisions. Zalm, therefore, should be able to approve the merger before his successor takes office.

BLAKEMAN